

1 UNITED STATES DISTRICT COURT

2 WESTERN DISTRICT OF NEW YORK

3 - - - - - X 23-MJ-1115  
4 UNITED STATES OF AMERICA,  
Plaintiff

5 Vs. Buffalo, New York  
6 SIMON GOGOLACK, August 30, 2023  
7 Defendant  
- - - - - X

8 TRANSCRIPT OF DETENTION HEARING  
9 BEFORE THE HONORABLE JEREMIAH J. MCCARTHY  
10 UNITED STATES MAGISTRATE JUDGE

11 U.S. ATTORNEY'S OFFICE - BUFFALO  
12 BY: NICHOLAS COOPER, ESQ.  
13 138 Delaware Avenue  
Buffalo, New York 14202  
Appearing on behalf of the Plaintiff

14 ROBERT J. BOLM, ESQ.  
15 125 Main Street  
Buffalo, New York 14203  
16 Appearing on behalf of the Defendant

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COURT REPORTER: Brandi A. Wilkins  
scalisba@gmail.com  
Kenneth B. Keating Federal Building  
100 State Street, Room 2120  
Rochester, New York 14614

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1                   THE CLERK: All rise.

2                   THE COURT: Good afternoon. Please be  
3 seated.

4                   THE CLERK: We are on the record in the  
5 matter of United States of America versus Simon  
6 Gogolack, criminal matter number 23-MJ-1115. We're  
7 here for a detention hearing. For the Government we  
8 have AUSA Nicholas Cooper. The defendant is present  
9 with attorney Robert Bolm. From the United States  
10 Probation Office, we have Officer Brian Mamizuka. The  
11 Honorable Jeremiah J. McCarthy presiding.

12                  THE COURT: Good afternoon everyone.

13                  MR. COOPER: Good afternoon, Your Honor.

14                  THE COURT: Mr. Bolm, welcome. Sir?

15                  MR. BOLM: Okay. Oh, welcome. Yeah. I'm  
16 hard of hearing, Your Honor.

17                  THE COURT: All right. Sir, are you  
18 admitted to practice in this court?

19                  MR. BOLM: In federal court, yes, sir.

20                  THE COURT: You are? Okay. Because our  
21 records --

22                  MR. BOLM: From 19, oh, 67 or 68.

23                  THE COURT: In this court?

24                  MR. BOLM: Yeah, federal court.

25                  THE COURT: Are you fully retained to

1 represent Mr. Gogolack?

2 MR. BOLM: Yes.

3 THE COURT: Okay. Counsel, have you both  
4 received today's pre-trial services report?

5 MR. COOPER: Yes, Judge.

6 MR. BOLM: Yes.

7 THE COURT: Okay. Are we ready to proceed?

8 MR. COOPER: Yes, Judge. I would just like  
9 to make a brief record before we begin with the  
10 detention portion. Um, there's a voluminous amount of  
11 voluntary early discovery that the Government loaded  
12 onto a disc and created a letter documenting the  
13 contents of the disc, and essentially, everything that  
14 I'm going to talk about during the proffer today is  
15 contained on the disc and I provided that to defense  
16 counsel before Your Honor took the bench, and so, um,  
17 I just wanted to make that record that a voluminous  
18 amount of early discovery has been turned over um and  
19 I guess I would like for counsel to just acknowledge  
20 receipt of that material.

21 THE COURT: Well, let me ask you first. So  
22 are you going to be relying on materials from the disc  
23 at today's hearing?

24 MR. COOPER: Well, I'm going to be  
25 proceeding by proffer which the Government does --

1                   THE COURT: No, I understand, but are you  
2 going to be referencing materials that are on the disc  
3 in today's proffer?

4                   MR. COOPER: Absolutely, Judge.

5                   THE COURT: All right. He hasn't had a  
6 chance to look at the disc or download anything from  
7 it?

8                   MR. COOPER: Correct, Judge. The Government  
9 has been in contact with him since last week, and I  
10 don't want to get into reasons why it wasn't able to  
11 be provided earlier on the record right now if counsel  
12 wants to but it's -- the material hasn't been  
13 available. The easiest way to convey it to counsel  
14 was to hand it to him when he appeared in court today,  
15 so that's what I did.

16                  THE COURT: You --

17                  MR. COOPER: But the material has been  
18 available. I spoke with him last week.

19                  THE COURT: Okay. All right.

20 (There was a pause in the proceeding.)

21                  THE COURT: Mr. Bolm, are you ready to  
22 proceed today or do you need an adjournment?

23                  MR. BOLM: I would need an adjournment, Your  
24 Honor.

25                  THE COURT: How much time do you need?

1 MR. BOLM: Oh, just a couple weeks.

2 THE COURT: A couple weeks? You understand  
3 that --

4 MR. BOLM: Oops. Pardon?

5 THE COURT: You understand that Mr. Gogolack  
6 will remain detained until we have a hearing. Do you  
7 understand that, sir?

8 MR. BOLM: Right, yeah.

9 THE COURT: All right. When do you want to  
10 hold a hearing?

11 MR. BOLM: Well, let's push for a week.  
12 Let's do that.

13 THE COURT: Okay. Um, Joanna, how about a  
14 week from today would be September 6.

15 MR. BOLM: Okay. Let me get this. Okay.

16 THE CLERK: Judge, you have 1:00 available.

17 MR. BOLM: Okay. Now, what's the date we  
18 got?

19 THE COURT: September 6 at 1:00 if that's  
20 good for everyone.

21 MR. BOLM: September 6 at 1:00? That's  
22 good.

23 THE COURT: Mr. Cooper, is that okay with  
24 you?

25 MR. COOPER: Everything works for the

1 | Government, Judge.

2 THE COURT: Okay. Mr. Mamizuka, will you be  
3 available then or someone from your office?

4 OFFICER MAMIZUKA: Yes, Judge.

5 THE COURT: All right. Then we'll continue  
6 the hearing until September 6 at 1 p.m. Defendant  
7 will be remanded. I just encourage counsel to, and  
8 I'm sure you have, but to communicate with each other  
9 so that we have all the logistics in place to go  
10 forward a week from today.

11 MR. COOPER: And Judge, if I could just  
12 address that briefly. To the extent that the  
13 discoverable material I provided is on a cd, if  
14 counsel is having trouble opening what's on the cd or  
15 viewing it, you are invited to come to the U.S.  
16 Attorney's Office and I'll load up a computer and we  
17 can watch through it all together so you'll see  
18 everything. Just call me. You have my cell phone  
19 number; right?

20 MR. BOLM: Okay.

21 MR. COOPER: Okay. All right. Thanks,  
22 Judge.

23 THE COURT: All right. Thank you all.

24 | (Proceeding concluded at 2:43 p.m.)

**CERTIFICATE OF COURT REPORTER**

I certify that this is a true and accurate record of proceedings in the United States District Court for the Western District of New York before the Honorable Jeremiah J. McCarthy on August 30, 2023.

S/ Brandi A. Wilkins

Brandi A. Wilkins

Official Court Reporter